

## **EXHIBIT 17**

**In the Matter Of:**

*FISHON v*

*PELOTON INTERACTIVE*

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*ISHMAEL ALVARADO*

*July 15, 2021*

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<p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK CIVIL ACTION NO. 19-CV-11711 (LJL)</p> <hr/> <p>ERIC FISHON, ET AL., Plaintiffs, vs. PELOTON INTERACTIVE, INC., Defendant.</p> <hr/> <p style="text-align: center;">VIDEO DEPOSITION OF ISHMAEL ALVARADO Conducted Remotely Thursday, July 15, 2021 10:02 a.m. EDT</p> <hr/> <p>Reported by: Elisabeth A. Lorenz: RMR, CRR Job No. 2021-801197</p>	<p style="text-align: center;">Page 1</p> <p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S 2 (All appearing remotely) 3 4 ON BEHALF OF THE PLAINTIFFS: 5 ADAM PROM 6 DiCello Levitt Gutzler 7 Ten North Dearborn Street 8 Eleventh Floor 9 Chicago, Illinois 60602 10 312.214.7900 11 aprom@dicelloselevitt.com 12 ALEX DRAVILLAS 13 AARON ZIGLER 14 Keller Lenkner 15 150 North Riverside Plaza 16 Suite 4270 17 Chicago, Illinois 60606 18 312.741.5220 19 ajd@kellerlenkner.com 20 amz@kellerlenkner.com 21 22 ON BEHALF OF THE DEFENDANT: 23 ALEXIS KELLERT 24 WILLIAM RECKLER 25 LILIA VAZOVA Latham &amp; Watkins 1271 Avenue of the Americas New York, New York 10020 212.906.1200 alexis.kellert@lw.com william.reckler@lw.com lilia.vazova@lw.com 26 27 ALSO PRESENT: 28 Kimberly Villalobos, Videographer 29 30</p> <p style="text-align: center;">Page 2</p> <p>1 VIDEO DEPOSITION of ISHMAEL ALVARADO, 2 conducted remotely via Zoom: 3 4 5 6 7 8 9 Pursuant to notice, before Elisabeth A. 10 Lorenz, Registered Merit Reporter and Certified 11 Realtime Reporter. 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: center;">Page 2</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 C O N T E N T S 2 INDEX OF EXAMINATIONS 3 Page 4 WITNESS: ISHMAEL ALVARADO 5 Examination By Ms. Kellert ..... 6 6 Examination By Mr. Prom ..... 84 7 8 MARKED EXHIBITS 9 Exhibit Description Page 10 No. 1 Page Vault Document ..... 27 11 No. 2 Page Vault Document ..... 27 12 No. 3 Peloton Compensation Claims ..... 65 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

1 <b>P R O C E E D I N G S</b> 2           THE VIDEOGRAPHER: We are on the record 3 on July 15th, 2021, at 10:02 a.m. Eastern Time for 4 the remote video deposition of Mr. Ishmael Alvarado 5 in the matter of Fishon versus Peloton. 6           My name is Kimberly Villalobos, and I 7 am the videographer and document tech. All present 8 will be noted on the stenographic record. 9           Will the court reporter please swear in 10 the witness. 11          THE STENOGRAPHER: Will counsel please 12 stipulate that in lieu of formally swearing in the 13 witness, the reporter will instead ask the witness 14 to acknowledge that his testimony will be true under 15 the penalties of perjury, that counsel will not 16 object to the admissibility of the transcript based 17 on proceeding in this way, and that the witness has 18 verified that he is, in fact, Ishmael Alvarado? 19          MS. KELLERT: We will for Peloton. 20          MR. PROM: We will as well. 21                *** 22 <b>ISHMAEL ALVARADO</b> 23 having agreed to tell the truth under penalty of 24 perjury, testified as follows: 25          THE STENOGRAPHER: You may proceed.	Page 5  1 <b>today?</b> 2 A Yes. 3 Q <b>And who is your counsel?</b> 4 A Adam Prom. 5 Q <b>Is there anyone else in the room with you in</b> 6 <b>New York in your apartment?</b> 7 A Not in this room. I have my door locked, 8 and I have my two children and my wife in the living 9 room. 10 Q <b>And we're taking today's deposition</b> 11 <b>virtually because of the COVID-19 pandemic.</b> 12 <b>Is that your understanding as well?</b> 13 A Yes. 14 Q <b>Mr. Alvarado, I'd like to start by going</b> 15 <b>over a few introductory matters that I'm hoping will</b> 16 <b>make our day to get -- together a little bit easier</b> 17 <b>and will help make sure that we have a clean record</b> 18 <b>of testimony.</b> 19 <b>As an initial matter, you understand that</b> 20 <b>you're testifying today pursuant to a subpoena; is</b> 21 <b>that correct?</b> 22 A I -- I'm aware that -- that I'm -- I was 23 selected to -- from Peloton to -- out of the class 24 action lawsuit. 25 Q <b>And did you have an opportunity to review a</b>
1 <b>E X A M I N A T I O N</b> 2 BY MS. KELLERT: 3 Q <b>Good morning, Mr. Alvarado.</b> 4 <b>How are you?</b> 5 A Okay. 6 Q <b>My name is Alexis Kellert, and I'm from the</b> 7 <b>law firm of Latham &amp; Watkins, and I'm here on behalf</b> 8 <b>of Peloton. And I'm joined by my colleague who's</b> 9 <b>off camera, William Reckler, and we'll be taking</b> 10 <b>your deposition today.</b> 11 A Okay. 12 Q <b>Mr. Alvarado, can you please state and spell</b> 13 <b>your full name for the record?</b> 14 A Full name, Ishmael Alvarado, I-S-H-M-A-E-L; 15 last name Alvarado, A-L, V as in victor, A-R-A, D as 16 in David, O. 17 Q <b>Thank you.</b> 18 <b>And, Mr. Alvarado, where are you located</b> 19 <b>today?</b> 20 A I am located in my apartment. 21 Q <b>And where is your apartment?</b> 22 A In New York -- 23 Q <b>In what city and state?</b> 24 A New York, New York. 25 Q <b>Mr. Alvarado, are you represented by counsel</b>	Page 6  1 <b>subpoena asking for your deposition testimony?</b> 2 A No. 3 Q <b>Mr. Alvarado, you understand that you're</b> 4 <b>providing testimony today under oath, right?</b> 5 A Yes. 6 Q <b>You understand that your responses are</b> 7 <b>subject to the same penalties of perjuries as if you</b> 8 <b>were testifying in a court of law; is that correct?</b> 9 A Yes. 10 Q <b>Are you taking any medication that would</b> 11 <b>prevent you from giving full and truthful testimony</b> 12 <b>today?</b> 13 A No. 14 Q <b>Are you experiencing any other medical</b> 15 <b>condition or condition that would prevent you from</b> 16 <b>giving full and truthful testimony today?</b> 17 A No. 18 Q <b>Mr. Alvarado, throughout today, I will try</b> 19 <b>to do my best to be as clear as possible with my</b> 20 <b>questions. But if I ask a question that for</b> 21 <b>whatever reason you don't understand, please let me</b> 22 <b>know, and I will do my best to rephrase it.</b> 23 <b>Does that make sense?</b> 24 A Yes. 25 Q <b>If you do answer my question, I'll assume</b>

1 that you understand it. 2 Is that fair? 3 A Yes. 4 Q Ms. Lorenz is here today as our court 5 reporter, and she will be recording all of my 6 questions and all of your answers. For the benefit 7 of our court reporter, please allow me to finish my 8 complete question before answering, even if you 9 think that you can anticipate where I'm going with 10 my question. 11 Does that make sense? 12 A Yes. 13 Q And I'll do my best to afford you the same 14 courtesy and allow you to complete your full answer 15 before I ask my next question. 16 In addition, because today's deposition is 17 being transcribed, please avoid answering my 18 questions with any gestures or slang like uh-huh or 19 head nods. 20 Is that okay? 21 A Yes. 22 Q There may be times where your counsel 23 objects to my question. Unless you're instructed by 24 your attorney not to answer my question and you 25 choose to follow that instruction, I'll ask that you	Page 9  1 a break. 2 Is that okay? 3 A Yes. 4 Q All right. Mr. Alvarado, what is your date 5 of birth? 6 A January 3rd, 1967. 7 Q My sister is the 2nd. 8 And what do you do for a living? 9 A I am a sales executive. I sell -- 10 Q And where are you -- sorry. Go ahead. 11 A I sell, like, national accounts janitorial 12 supplies. 13 Q And what company do you work for? 14 A I work for Paper Enterprises. 15 Q What is your current home address? 16 A My current home address is 82 Rutgers Slip, 17 Apartment 17D, New York, New York, 10002. 18 Q Mr. Alvarado, have you ever lived outside of 19 New York? 20 A Have I ever lived outside? Only when I was 21 in the Marine Corps. 22 Q And what years were you in the Marine Corps? 23 A '85 to 1992. 24 Q And aside from 1985 to 1992, you have always 25 resided in New York; is that correct?
Page 10  1 go ahead and provide me an answer. 2 Is that okay? 3 A Yes. 4 Q It's also important, since we're conducting 5 this deposition remotely, that you refrain from 6 communicating with anybody else during the 7 deposition, whether that's via e-mail or text 8 message, chats, or any note passing. I know you 9 mentioned that you're in a locked room, so I 10 appreciate that, but just wanted to get that on the 11 record and get your agreement to that. 12 Is that okay? 13 A Yes. 14 Q Please also review [sic] from refraining 15 [sic] anything that I cannot see such as browsing 16 the internet or your e-mail that you have not 17 previously disclosed to me. 18 Do you understand? 19 A Yes. 20 Q And last, given the time constraints for 21 today's deposition, hopefully we'll -- we won't need 22 to take a lot of breaks, but to the extent that you 23 need a break, please feel free to ask me for one. 24 The only thing I'll ask is that if I have a pending 25 question, that you answer my question before taking	Page 10  1 A Yes. 2 Q Have you ever been involved in a lawsuit? 3 A No. 4 Q Have you ever been convicted of a crime? 5 A Yes. 6 Q And what was that crime? 7 MR. PROM: Just a second, Mr. Alvarado. 8 I'm going to object as beyond the scope 9 of Judge Liman's order, Docket 57, which makes clear 10 that the scope of these absent class member 11 depositions is solely for commonality, predominance, 12 and typicality. 13 Mr. Alvarado, I'll also instruct you 14 that to the extent you feel any of your answers to 15 these questions may be self-incriminating, you are 16 able to plead the Fifth Amendment. 17 BY MS. KELLERT: 18 Q And you can go ahead and answer if you know. 19 A I'm sorry, repeat the question. 20 Q Sure. 21 What was the crime that you were convicted 22 of? 23 A I was convicted of unlawful surveillance. 24 Q And what year was that? 25 MR. PROM: Same objection.

1        THE WITNESS: Sorry, say that again. 2 BY MS. KELLERT: 3 Q     Sorry, you can go ahead and answer. 4        What year were you convicted of the crime of 5        unlawful surveillance? 6 A     That was 2018. 7 Q     And did you pay any fines or -- did you pay 8 any fines for that crime? 9        MR. PROM: Same objection. 10 BY MS. KELLERT: 11 Q    You can go ahead and answer if you know. 12 A    Whatever court fees were required. I don't 13 remember exactly. 14 Q    And was there any probation or jail time 15 associated with the conviction? 16        MR. PROM: Same objection. 17 BY MS. KELLERT: 18 Q    You can answer if you know. 19 A    Probation. That's all. 20 Q    How long was the probation term? 21        MR. PROM: Same objection. 22        THE WITNESS: Five years. 23 BY MS. KELLERT: 24 Q    You can answer if you know. 25 A    Yeah, five years.	Page 13  1 know, traffic ticket and my legal issues. 2 Q    And with respect to the unlawful 3 surveillance, how long was that -- how many days of 4 testimony did you give related to that? 5        MR. PROM: Same objection. 6        THE WITNESS: I don't remember. 7 BY MS. KELLERT: 8 Q    More than one? 9        MR. PROM: Same objection. 10 BY MS. KELLERT: 11 Q    You can answer if you know. 12 A    I went to court several times. I don't 13 remember. Like, I don't have a -- a count for you. 14 Q    Mr. Alvarado, when did you first learn that 15 you would be deposed in this case? 16 A    I want to say -- I don't think it's over a 17 year, but it was several months, you know, when I -- 18 I was called by the law firm that I was chosen by 19 Peloton. 20 Q    What, if anything, did you do to prepare for 21 today's deposition? 22 A    I don't understand what you mean preparing 23 in reference to. Like, I didn't practice for this. 24 Q    Did you discuss what you expected to testify 25 with anybody?
1 Q    Mr. Alvarado, have you ever filed for 2 bankruptcy? 3 A    Yes. 4 Q    And what year was that? 5        MR. PROM: Same objection. 6        THE WITNESS: 2006. 7 BY MS. KELLERT: 8 Q    Mr. Alvarado, have you ever been deposed 9 before? 10 A    Like what we're doing right now? 11 Q    Exactly. 12 A    No. 13 Q    And have you ever given any sworn testimony 14 before? 15 A    Just in a court of law -- 16 Q    Okay. 17 A    -- and, like, traffic tickets and stuff like 18 that, you know. 19 Q    And on how many occasions do you think that 20 you've provided testimony in a court of law? 21 A    I don't have an -- a number. A handful. I 22 don't know. 23 Q    And were they all for traffic tickets or 24 anything else? 25 A    Just what I told you in reference to, you	Page 14  1 A    I had a couple of meetings with my lawyers. 2 That's it. 3 Q    So without revealing the substance of any 4 conversations you had with your attorneys, I'm going 5 to ask you a couple of questions to better 6 understand that preparation. So you mentioned you 7 spoke to your lawyers. 8        About how many times did you speak to them 9 prior to today's deposition in preparation for 10 today? 11 A    Two times. 12 Q    And how long did each of those meetings 13 last? 14 A    About an hour. 15 Q    Did you meet in person for either of these 16 two discussions with your lawyers? 17 A    No. 18 Q    And when was the first time you spoke to 19 them? When was -- when did that first meeting take 20 place in preparation for today's deposition? 21 A    Monday. This Monday. I'm sorry, this 22 Monday. 23 Q    And that would be July 12th? 24 A    Yes. 25 Q    When was the second time that you met with

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<p>1 <b>your lawyers in preparation for today's deposition?</b></p> <p>2 A I didn't meet with them. They called me,</p> <p>3 and I -- we spoke yesterday.</p> <p>4 Q <b>And yesterday was Wednesday, the 14th; is</b></p> <p>5 <b>that correct?</b></p> <p>6 A Yes.</p> <p>7 Q <b>Did you speak with anybody else about</b></p> <p>8 <b>today's deposition aside from your attorneys that we</b></p> <p>9 <b>just discussed?</b></p> <p>10 A No. I didn't have any legal discussions</p> <p>11 other than letting my family know I have an</p> <p>12 important meeting, not to bother Daddy in the room</p> <p>13 basically.</p> <p>14 Q <b>Understood.</b></p> <p>15 <b>Did you review any documents in preparation</b></p> <p>16 <b>for today's deposition?</b></p> <p>17 A No.</p> <p>18 Q <b>Now, earlier when we first started talking,</b></p> <p>19 <b>I asked whether you had a chance to review the</b></p> <p>20 <b>subpoena requesting your testimony.</b></p> <p>21 <b>Do you recall that question?</b></p> <p>22 A Yes.</p> <p>23 Q <b>And you mentioned that you thought that you</b></p> <p>24 <b>had not had a chance to review that; is that</b></p> <p>25 <b>correct?</b></p>	<p>1 A Private.</p> <p>2 Q <b>And why do you maintain them in a private</b></p> <p>3 <b>capacity?</b></p> <p>4 A I have the right to privacy. I don't want</p> <p>5 to -- I want just my friends and family and people I</p> <p>6 have relationships with. I don't need the whole</p> <p>7 world to know what I'm doing.</p> <p>8 Q <b>Do you use a common account name across all</b></p> <p>9 <b>of your social media accounts?</b></p> <p>10 A Yes, I do.</p> <p>11 Q <b>And what is that username?</b></p> <p>12 A Shihan, S-H-I-H-A-N, 2013.</p> <p>13 Q <b>And is that the same username that you also</b></p> <p>14 <b>use for Peloton?</b></p> <p>15 A Yes.</p> <p>16 Q <b>Have you ever posted anything related to</b></p> <p>17 <b>Peloton across any of your social media accounts?</b></p> <p>18 A Yes.</p> <p>19 Q <b>And what kinds of things have you posted</b></p> <p>20 <b>about Peloton?</b></p> <p>21 A I post primarily classes that I take, and I</p> <p>22 post because of the instructors that I like. So</p> <p>23 it's not, per se, to Peloton, but it's mostly the</p> <p>24 instructors.</p> <p>25 Q <b>Would you say that you posted over 20 times</b></p>
Page 18	Page 20
<p>1 A Yes. A subpoena is like, to me, a legal</p> <p>2 document from a court. Like, I did not --</p> <p>3 Q <b>Uh-huh.</b></p> <p>4 A -- I did not see that.</p> <p>5 Q <b>So did you see any attachment to the</b></p> <p>6 <b>subpoena that requested specific documents that we</b></p> <p>7 <b>were interested in reviewing?</b></p> <p>8 A No, I did not see any paperwork.</p> <p>9 Q <b>Did you bring any documents with you today</b></p> <p>10 <b>in response to any subpoena or requests?</b></p> <p>11 A No. I was just told to appear and to speak.</p> <p>12 Q <b>Putting aside the subpoena for a moment,</b></p> <p>13 <b>Mr. Alvarado, do you maintain any social media</b></p> <p>14 <b>accounts?</b></p> <p>15 A Yes, just the normal.</p> <p>16 Q <b>Which ones?</b></p> <p>17 A Instagram, Twitter, and Facebook.</p> <p>18 Q <b>Any others?</b></p> <p>19 A None that I really post anything on. Those</p> <p>20 I basically post almost daily on, those three.</p> <p>21 Like, they have a button you press, and it gets</p> <p>22 submitted to all three at the same time, so...</p> <p>23 Q <b>Oh, I see. So it's kind of integrated.</b></p> <p>24 <b>And are your social media accounts public or</b></p> <p>25 <b>private?</b></p>	<p>1 <b>about Peloton across your different social media</b></p> <p>2 <b>accounts?</b></p> <p>3 A More than 20 times.</p> <p>4 Q <b>More than 50 times?</b></p> <p>5 A More than 50 times.</p> <p>6 Q <b>Do you think more than 100 times?</b></p> <p>7 A More than 100 times.</p> <p>8 Q <b>Do you want to give me an estimate of about</b></p> <p>9 <b>how many times you think you posted across your</b></p> <p>10 <b>social media accounts related to Peloton?</b></p> <p>11 A Every time I ride.</p> <p>12 Q <b>Is your social media -- or are your social</b></p> <p>13 <b>media posts about Peloton, do you use -- I think</b></p> <p>14 <b>they're called hash tags related to Peloton?</b></p> <p>15 A Yes. Not all the time --</p> <p>16 Q <b>And what is your -- sorry, go ahead.</b></p> <p>17 A I said not all the time, but, yes, I do use</p> <p>18 hash tags.</p> <p>19 Q <b>And what do you understand is the use of a</b></p> <p>20 <b>hash tag?</b></p> <p>21 A I'm not a very techy person. I don't know.</p> <p>22 People do it. I put it on there. I really don't</p> <p>23 know the purpose of it to be honest with you. I</p> <p>24 really don't. It's not my kind of --</p> <p>25 Q <b>Do you know --</b></p>

1 A So... 2 Q That's why I was asking too. 3 Do you know whether your posts that use a 4 hash tag become linked with other people's posts 5 that use the same hash tag? 6 A I didn't know that. I just -- you know, I'm 7 just -- 8 Q What's the early -- sure. Go ahead. I 9 didn't mean to cut you off. 10 A I really don't know anything when it comes 11 to the technologies of -- of TikTok and Instagram 12 and all that. I just know that I post it, I have 13 friends, you get likes. Maybe I'm a like junky. I 14 like to get little likes and hearts, you know. 15 Q Understood. 16 What's the earliest in time that you recall 17 making a post related to Peloton? In what year? 18 A I don't know. I know -- I could tell you 19 when I first started taking a Peloton class. I know 20 that, so -- 21 Q And when was that? 22 A -- I wasn't on social media at that time, so 23 I would have to take a look. I would say 2014. 24 Q And had you been on social media in 2014, do 25 you think you would have posted about Peloton that	Page 21 Page 23
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<p>1 service that captures online content called Page 2 Vault. And so the Capture URL is 3 <a href="HTTP://IshmaelAlvarado.tumblr.com">HTTP://IshmaelAlvarado.tumblr.com</a> and then a whole 4 bunch of numbers.</p> <p>5 Do you see where I'm looking?</p> <p>6 A Yes.</p> <p>7 MS. KELLERT: And if we can scroll down 8 to the next page, please, Kimberly.</p> <p>9 BY MS. KELLERT:</p> <p>10 Q Is that your picture under the -- or on top 11 of Shihan2013?</p> <p>12 A That's me.</p> <p>13 Q And we're looking on the tumblr pane?</p> <p>14 A Yeah.</p> <p>15 Q And do you believe that this is your tumblr 16 account?</p> <p>17 A Yes, that's probably when I submit it 18 through Instagram it -- yeah, it connects probably 19 to tumblr as well, besides Facebook and Twitter. So 20 you will probably see the same posting on the other 21 two social media accounts.</p> <p>22 Q Understood.</p> <p>23 MS. KELLERT: And, Kimberly, if we can 24 just scroll down a little bit to see the date under 25 the box of that picture, and I think if we can zoom</p>	<p>1 Q And so by tagging @onepeloton, is it your 2 understanding that Peloton would be able to see this 3 post of you looking pretty happy about the ride that 4 you just took?</p> <p>5 A Yes.</p> <p>6 Q Is this a selfie, or did somebody else take 7 this picture?</p> <p>8 A That's me, selfie.</p> <p>9 Q And, Mr. Alvarado, we'll just take a look at 10 one other one.</p> <p>11 MS. KELLERT: Ms. Kimberly, can we 12 please see Tab 16.</p> <p>13 THE STENOGRAPHER: Are you marking that 14 first one as an exhibit?</p> <p>15 MS. KELLERT: I am. Sorry, I should 16 have marked that as Exhibit 1 to this deposition.</p> <p>17 Thank you, Ms. Lorenz.</p> <p>18 (Marked Exhibit No. 1.)</p> <p>19 MS. KELLERT: And so what we've pulled 20 up as Tab 16 we'll mark as Exhibit 2 to today's 21 deposition.</p> <p>22 (Marked Exhibit No. 2.)</p> <p>23 BY MS. KELLERT:</p> <p>24 Q And, Mr. Alvarado, I'll, again, direct your 25 attention to the top right-hand corner where it says</p>
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<p>1 in, it may be easier for Mr. Alvarado to see, but I 2 believe it says JUL, which I assume is July, 5th, 3 2021.</p> <p>4 BY MS. KELLERT:</p> <p>5 Q Do you see where I'm looking?</p> <p>6 A Yes.</p> <p>7 Q And it looks like you just finished a 8 Peloton ride, and you're giving a smile and kind of 9 a fist bump in the picture; is that right?</p> <p>10 A Yeah.</p> <p>11 Q And do you recall posting this picture to 12 any of your social media accounts on July 5th?</p> <p>13 A That was definitely posted on -- on my 14 Instagram that then shoots it out to all the other 15 stuff that's linked to it.</p> <p>16 Q Understood.</p> <p>17 And earlier we talked about hash tags, and I 18 see a few hash tags here. But it also says 19 @onepeloton.</p> <p>20 Do you see where I'm looking in the text of 21 your post?</p> <p>22 A Yes.</p> <p>23 Q And what does @onepeloton mean?</p> <p>24 A I think that -- that's their Instagram. 25 That's their account.</p>	<p>1 Page Vault, and the Capture URL for this is 2 similarly the <a href="IshmaelAlvarado.tumblr.com">IshmaelAlvarado.tumblr.com</a> account, if 3 you see where I'm looking.</p> <p>4 A Uh-huh.</p> <p>5 MS. KELLERT: And, Kimberly, if we can 6 please scroll down to Page 2.</p> <p>7 BY MS. KELLERT:</p> <p>8 Q And so a very similar post, but under this 9 picture, I believe the date is July 12th, 2021.</p> <p>10 Q Do you see where I'm looking?</p> <p>11 A Yes.</p> <p>12 Q And July 12th was this Monday; is that 13 correct?</p> <p>14 A Yes.</p> <p>15 Q And that was the same day that you met with 16 your lawyers before today's deposition?</p> <p>17 A Yes.</p> <p>18 Q And do you know if you did this ride before 19 or after you spoke with your lawyers in preparation 20 for today's deposition?</p> <p>21 A That would probably be after. I tend to 22 work out in the -- in the evenings after work. I'm 23 not a morning guy. After work.</p> <p>24 Q And your post here actually says, Got my 25 spin on after a long day at work on my Peloton bike,</p>

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<p>1 <b>exclamation point.</b></p> <p>2 <b>Do you see where I'm looking?</b></p> <p>3 A Yes.</p> <p>4 Q <b>And you then put a couple of emojis; is that correct?</b></p> <p>5 A Yes.</p> <p>7 Q <b>And, again, it looks like you're pretty happy in this picture, and you had a good ride?</b></p> <p>9 A Yes.</p> <p>10 MS. KELLERT: And if we can just scroll down one more page, please, Kimberly, still on Exhibit 2 to this deposition.</p> <p>13 BY MS. KELLERT:</p> <p>14 Q <b>This is another picture showing the Peloton bike.</b></p> <p>16 <b>And how would you describe yourself in this picture?</b></p> <p>18 A I look strong.</p> <p>19 Q <b>You do look strong.</b></p> <p>20 A Yeah.</p> <p>21 Q <b>You definitely look strong.</b></p> <p>22 <b>And I would say you seem to be smiling; is that right?</b></p> <p>24 A Yes.</p> <p>25 Q <b>In this second post that we're looking at</b></p>	<p>1 can pull that exhibit down now.</p> <p>2 BY MS. KELLERT:</p> <p>3 Q <b>Mr. Alvarado, are you a member of any Peloton-related online groups?</b></p> <p>5 A I don't believe so. I don't think I'm in a group, although there's a feature where we follow each other like other Peloton people. Other than that, like, I'm not part of like a -- like a Facebook group or a chat group, no.</p> <p>10 Q <b>And you mentioned, I think, a moment ago that you're a group fitness fanatic.</b></p> <p>12 <b>Was that your wording? I don't want to mince your words.</b></p> <p>14 A Yeah, yeah. I -- I enjoy group fitness. I guess that comes from my military days. I like working out and the energy more of being in a group with screaming and yelling and all suffering together as we get healthy.</p> <p>19 Q <b>And you mentioned that through this group, that you are able to follow other Peloton users.</b></p> <p>21 <b>Do you think that it creates that sense of community?</b></p> <p>23 A It's definitely a tool for -- you know, for remote community, you know, but I would prefer to see people face to face and -- you know, but, yes,</p>
Page 30	Page 32
<p>1 <b>where you -- where I agree you look strong, you write, Thank you @hannahcorbinnc for an amazing 80's @onepeloton ride in the comfort of my own home.</b></p> <p>4 <b>Do you recall writing that on your Instagram post that then got tagged to your tumblr?</b></p> <p>6 A Yes.</p> <p>7 Q <b>Mr. Alvarado, is it important to you that you were able to complete the ride in the comfort of your own home?</b></p> <p>10 A I'm -- I am a group fitness junkie, and, you know, it's -- I've been using the Peloton more and more, especially during COVID. But I -- I enjoy it. I enjoy working -- the workout. The workout is -- I like spinning, so it's a good workout.</p> <p>15 Q <b>And in addition to just liking spinning and getting the fitness benefits, do you like the flexibility? It seems like you posted that you were able to do this fitness class after a long day of work or in the comfort of your home.</b></p> <p>20 <b>Are those reasons that you like Peloton?</b></p> <p>21 A Those are some of the benefits of having a -- a home workout -- a quality home workout available to -- available to me at home, especially when I have two young kids and a busy work schedule.</p> <p>25 MS. KELLERT: Thank you, Kimberly. We</p>	<p>1 I -- there's a whole bunch of people, who I've known prior to Peloton even existing, that we worked out together that have Peloton bikes. And we can see ourselves or, you know -- and work out.</p> <p>5 Q <b>And is that -- is that one of the things that you also like about Peloton?</b></p> <p>7 A That's a really good feature that they -- they have, yes.</p> <p>9 Q <b>Mr. Alvarado, currently, how often do you exercise?</b></p> <p>11 A Four to five times a week. I would say more like four -- four times. I do rest my body.</p> <p>13 Q <b>Has that been true of the past two years of your life?</b></p> <p>15 A Yes.</p> <p>16 Q <b>In the past five years of your life?</b></p> <p>17 A Yes.</p> <p>18 Q <b>Would you say that you've always been an active person?</b></p> <p>20 A I'm a Marine, so, yes. I'm always gonna -- even though I'm not on active duty, I'm -- yes.</p> <p>22 Q <b>Do you follow a consistent workout rotation in terms of the different activities that you do to stay active?</b></p> <p>25 A Repeat that again.</p>

1 Q Sure. 2 Do you follow any consistent workout 3 rotation in terms of the activities, so cycling on 4 Monday, fitness group Tuesday, any -- any regular 5 schedule? 6 A Well, I have a consistent schedule that -- I 7 like a variety, and I don't like to just stick to 8 one thing. I -- other than a Peloton challenge, 9 which they offer for like -- to earn a badge, I 10 don't do the same thing every day. I like a 11 different variety of workout. 12 Q And so aside -- putting cycling aside for 13 the moment, what other fitness activities do you do 14 to exercise and to stay active? 15 A HIIT classes, Bootcamp classes, lots of 16 martial arts affiliated classes like boxing, kick 17 boxing, jujitsu. 18 Q And what do you like about -- we'll start 19 with the martial-arts-related classes, kick boxing 20 and -- and those? 21 A I've been a martial artist since I was 22 11 years old, so it's inbred in me. I trained in 23 martial arts when I was in the Marine Corps. I 24 enjoy it. I respect it. I like all the aspects of 25 it.	Page 33  1 free classes to take. 2 Q And of the classes that you've had to pay 3 for, what -- can you describe those for me, what 4 were those classes? 5 A They were, you know, private studios that 6 offered a class and had, you know, amenities and all 7 this stuff and just -- they were group fitness 8 classes. 9 Q Do you recall the price of those group 10 fitness classes? 11 A Yeah, they averaged around \$30 average. 12 Q For one class; is that correct? 13 A For one class. That was -- that's the going 14 rate at the time in New York City. Now it's around 15 30 to \$35 per class. But that's the going rate in 16 the New York market for a boutique fitness class 17 prepandemic. 18 Q Mr. Alvarado, do you currently have a 19 Peloton membership subscription? 20 A Yes, we -- I can't get the service without 21 subscribing. I would just have a bike that I can 22 pedal on, you know. 23 Q And when did you first purchase that 24 membership subscription? 25 A My wife handles all that stuff, so I want to
Page 34  1 Q When you do martial arts classes -- and I 2 apologize if that's not the right word -- is there 3 music playing? 4 A In a traditional martial arts class, 5 absolutely not. If I'm doing like a cardio kick 6 boxing or a boxing gym that -- you know, that's 7 fitness fused with skill plus, you know, getting 8 your burpees in as -- so to speak, yeah, they play 9 music, yes. 10 Q But certainly your respect for martial arts 11 and your dedication to it was not driven by music; 12 is that correct? 13 A Not martial arts, no. There's no music in 14 martial arts, no. 15 Q Of the activities that -- that -- withdrawn. 16 Aside from Peloton, are you a subscriber to 17 any other fitness or wellness services? 18 A No. 19 Q And of the classes and other activities we 20 were just discussing, do any -- are any of them fee 21 for service? So do you have to pay for any of them? 22 A In the past, I might have paid for classes 23 that, you know, they were like boutique classes you 24 just pay as you go. I've been doing -- the last few 25 years, I've been doing a lot of -- finding a lot of	Page 34  1 say it was around 2018, twenty -- 2 Q And when you say -- I'm sorry, go ahead. 3 A It could be early 2017 -- late 2017 or early 4 2018. I really don't, you know, know specific. 5 Q And when you say your wife handles all of 6 that stuff, what do you mean by that? 7 A She's more techy than me, and she -- you 8 know, she's the one who organized the whole thing, 9 you know. Her -- it was her idea to get the bike. 10 Like, I was never going to purchase a Peloton bike. 11 I -- I just told you, I'm a group fitness person. 12 I'm an extrovert; my wife is an introvert. She 13 likes working without people seeing her get sweaty 14 and stuff like that, so, you know. 15 Q She sounds like me. 16 So you said it was her idea to get the bike. 17 What do you know about that? What did she 18 tell you? 19 A She basically had a friend that just bought 20 the bike. It was all brand new. And they had a 21 room in their apartment. And the friend got 22 pregnant and needed to make that into a child room 23 and offered us to purchase the bike. 24 Q So you purchase -- your wife purchased the 25 bike from her friend who needed this space in

<p style="text-align: right;">Page 37</p> <p>1 <b>New York City, which I also understand.</b></p> <p>2 <b>Do you know how much your wife paid for the</b></p> <p>3 <b>secondhand bike?</b></p> <p>4 A About \$1,200, so that's way below a</p> <p>5 brand-new bike with -- fully loaded with shoes and</p> <p>6 the mats and the weights goes for about 3,000, I</p> <p>7 believe, if you look their website, you know, and</p> <p>8 so...</p> <p>9 I was like, Okay, that's -- because I</p> <p>10 wasn't -- I didn't want to pay \$3,000 for a bike, so</p> <p>11 I said, Okay, I can deal with that, so...</p> <p>12 Q <b>So you felt like the \$1,200 was a good deal</b></p> <p>13 <b>on the bike; is that right?</b></p> <p>14 A Yes. And she purchased the bike, and then</p> <p>15 we had to get the subscription to it to activate it</p> <p>16 to be able to get it to work. It's just like having</p> <p>17 cable or, you know, a streaming service. It's not</p> <p>18 going to go on automatically. You have to purchase</p> <p>19 that.</p> <p>20 Q <b>And just backing up to talk about the bike</b></p> <p>21 <b>for a second.</b></p> <p>22 <b>So your wife paid \$1,200 for the secondhand</b></p> <p>23 <b>bike.</b></p> <p>24 <b>Did it come with any of the accessories that</b></p> <p>25 <b>you just mentioned, a mat, shoes, anything else?</b></p>	<p style="text-align: right;">Page 39</p> <p>1 A No.</p> <p>2 Q <b>Did your wife tell you that her friend had</b></p> <p>3 <b>described the bike at all to her?</b></p> <p>4 MR. PROM: Objection to the form.</p> <p>5 BY MS. KELLERT:</p> <p>6 Q <b>You can answer if you know.</b></p> <p>7 A No. You know, I -- listen, my wife, she</p> <p>8 does whatever she wants to do, and I -- I -- I</p> <p>9 couldn't say yes or no. She wanted it. She wanted</p> <p>10 the bike. She just -- you know, I -- at first I</p> <p>11 was -- I'm -- I was reluctant because I was like, Do</p> <p>12 we need another expense? We live in a -- in a</p> <p>13 two-bedroom apartment. This is Manhattan. I go out</p> <p>14 and work out anyway, you know. But she got it, and</p> <p>15 that's -- you know, that's the gist of it.</p> <p>16 Q <b>Well, Mr. Alvarado, I hope that my husband</b></p> <p>17 <b>one day feels the same way about me and just says,</b></p> <p>18 <b>She does what she wants.</b></p> <p>19 <b>But with respect to the membership that came</b></p> <p>20 <b>along with the bike or that you purchased after the</b></p> <p>21 <b>bike, was that also your wife's idea? She kind of</b></p> <p>22 <b>said to you, We need to get this as well?</b></p> <p>23 A Well, that was implied because it's -- it's</p> <p>24 a -- you know, you can purchase a Peloton bike and</p> <p>25 pull out your iPhone and take somebody else's</p>
<p style="text-align: right;">Page 38</p> <p>1 A It came loaded. We got the highest package</p> <p>2 deal that you can get from Peloton when it comes to</p> <p>3 the accessories that they provide with the bike.</p> <p>4 Q <b>Can you list those accessories for me that</b></p> <p>5 <b>you were able to purchase secondhand?</b></p> <p>6 A Two sets of shoes and the mat that the bike</p> <p>7 actually goes on top of so it doesn't ruin your</p> <p>8 floor.</p> <p>9 Q <b>And did you get weights, hand weights?</b></p> <p>10 A I specifically said weights, yes.</p> <p>11 Q <b>Sorry, I missed that. I apologize.</b></p> <p>12 <b>Do you have -- withdrawn.</b></p> <p>13 <b>Does your wife have any proof of purchase</b></p> <p>14 <b>for the bike from her friend?</b></p> <p>15 A I don't believe so. I can ask, but I don't</p> <p>16 think so. I think it was under -- it was cash</p> <p>17 purchases and, you know, come pick it up yourself,</p> <p>18 which I labored at, you know.</p> <p>19 Q <b>And that was my next question.</b></p> <p>20 <b>Do you know what form of payment? Was it</b></p> <p>21 <b>cash?</b></p> <p>22 A I believe it was cash.</p> <p>23 Q <b>Prior to purchasing the bike for \$1,200, did</b></p> <p>24 <b>you have any opportunity to talk to your wife's</b></p> <p>25 <b>friend about the bike?</b></p>	<p style="text-align: right;">Page 40</p> <p>1 classes because it's still a tool. It's a fitness</p> <p>2 piece of equipment.</p> <p>3 The benefit is it's actually using their</p> <p>4 rides. They have a -- you know, all the rides that</p> <p>5 you could take, and they're all archived, which is</p> <p>6 even cooler. You can go back to -- to rides and</p> <p>7 have fun with it, you know. That's -- so you have</p> <p>8 to subscribe to get that archive to get the -- the</p> <p>9 tools.</p> <p>10 As we got the bike, I just started learning</p> <p>11 all the other features that they offered that -- you</p> <p>12 know, which was good.</p> <p>13 Do I utilize all of them? No. But I like</p> <p>14 the fact that there's instructors that I like that I</p> <p>15 can take live, or I can go back and take their</p> <p>16 class.</p> <p>17 Q <b>So before you purchased the subscription --</b></p> <p>18 <b>withdrawn.</b></p> <p>19 I just want to clarify one thing. So you</p> <p>20 purchased the bike from your friend.</p> <p>21 Did you buy the subscription on the same day</p> <p>22 as your bike purchase?</p> <p>23 A That -- yeah, I -- I didn't do -- I didn't</p> <p>24 set up the subscription. She did all that stuff</p> <p>25 with our joint account, you know. I'm paying for</p>

1 it.  2 Q <b>Understood.</b>  3 A She set everything up.  4 Q <b>Understood.</b>  5 <b>So she purchased -- sorry, go ahead.</b>  6 A I was going to say, but since I've been 7 going to Peloton actually physically in the class 8 before purchasing it, like I've always had an 9 account with them.  10 Q <b>And when did you first open an account with</b> <b>Peloton?</b>  12 A 2014.  13 Q <b>And you said you took in-studio classes; is</b> <b>that right?</b>  15 A Yes. When they first came out and they were 16 on 23rd Street between 6th and 7th Avenue, they 17 were -- I don't want to say the word begging.  18 But they were offering free classes because 19 this was a new platform, and they were new on the 20 block, and there was other -- I'm not going to 21 mention other companies that were way known for 22 spinning. And it was a new concept, you know, 23 and -- and they wanted at -- I was known as an avid 24 spinner with a whole bunch of my friends.  25 And they were offering the classes at no	Page 41  1 Q You also mentioned that you were part of 2 this group of avid cyclers; is that right? 3 A Avid fitness people, not just cyclers. We 4 did all sorts of fitness. I'm trying to not mention 5 competitors or names or companies, you know, just -- 6 you can imagine when it comes to spinning, you know, 7 who was No. 1 back then. Peloton, no-go. 8 Q <b>Have you at any time paused your</b> <b>subscription since it first began?</b> 10 A I don't recall ever having our subscription 11 paused at all because I never stopped. You know, 12 when we got it, we've been -- we pay monthly. Like, 13 I see it getting taken out of my joint account. So 14 I don't know anything about it being paused. We 15 always ride. 16 Q <b>And so you haven't at any time canceled your</b> <b>subscription; is that correct?</b> 18 A Not that I'm aware of. I never canceled 19 anything. 20 Remember, we had a subscription since 21 getting a bike. We got the bike and then -- if you 22 have records of when we subscribed starting, that's 23 when we probably got the bike. Anything other than 24 that, I never had a subscription. 25 Q <b>And you mentioned earlier that your wife</b>
Page 42  1 charge in the beginning.  2 Q <b>And about how many no-charge classes would</b> <b>you say that you took?</b>  4 A I took as many until they stopped -- stopped 5 doing it. I don't remember how many, but I remember 6 I would go there regularly. And, you know, the 7 instructors in the beginning -- and some of them are 8 still there, but they all came from other studios 9 that we -- we spin.  10 So most of us who are into boutique fitness 11 are loyal to the instructors, and we follow them 12 where they go. So they were smart to pull in 13 certain instructors that drew in, you know, a class 14 to fill.  15 Q <b>Would you say that you took more than 30</b> <b>free in-studio classes?</b>  17 A I don't think it would be 30. You know, it 18 could be anywhere no less than 8 to no more than 12, 19 if I'm correct.  20 Q <b>And this was during the time period where</b> <b>you said, I think, in New York City prepandemic, the</b> <b>price of a boutique class would have been around</b> <b>\$30; is that right?</b>  24 A Back then, yeah, around \$30 was the going 25 rate for a class.	Page 42  1 handles the financials in terms of signing up or 2 purchasing the subscription; is that correct? 3 A Yes. So let me -- 4 Q <b>Do you -- go ahead.</b> 5 A Let me go back for a second because, again, 6 I'm not under my wife's back. She does things on 7 her own. 8 My wife likes yoga; my wife likes working 9 out at home. And she does, like, virtual workouts 10 prepandemic. That's her thing. So I don't know if 11 my wife signed up. 12 I know Peloton is constantly advertising 13 these other formats that they have. She might have 14 subscribed to something like that and maybe canceled 15 it or -- or put it back. That could be what's on 16 record. 17 But when it comes to the bike, when we 18 purchased the bike, we've -- can always -- that 19 never stopped being accessible to us, what our 20 monthly payments were. 21 Q <b>Understood.</b> 22 A Just in case -- 23 Q <b>In terms of --</b> 24 A I would have to ask her that question, and I 25 don't know when it comes to that.

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<p>1 Q In terms of the form of payment that you 2 used to purchase the subscription, though, that was 3 handled by your wife; is that correct?</p> <p>4 A Yeah.</p> <p>5 MR. PROM: Objection to the form.</p> <p>6 BY MS. KELLERT:</p> <p>7 Q You can answer if you know.</p> <p>8 A Whatever she filled out or -- or processed, 9 I don't know. I know that all I did was start 10 riding when she got it.</p> <p>11 Q So in other words, you did not download the 12 membership yourself; is that right?</p> <p>13 A My wife did everything.</p> <p>14 Q And so you didn't go on Peloton's website to 15 look through everything and select whatever you 16 would have wanted; your wife did that; is that 17 correct?</p> <p>18 A Yeah, she did all that. All I did was make 19 sure my account was still in and was still active. 20 My account, I put on a photo on there so there -- 21 with a little picture of me. I created my name, 22 made sure that the photo was intact, and started 23 spinning.</p> <p>24 Q And have you ever been on Peloton's website?</p> <p>25 A I look when they send me -- they send me a</p>	<p>1 Q And you just mentioned a moment ago that 2 Peloton sends you a monthly e-mail with your 3 achievements; is that correct?</p> <p>4 A Yes.</p> <p>5 Q And prior to signing up for a Peloton 6 subscription, did you know that you would be getting 7 this monthly e-mail with your achievements?</p> <p>8 A No.</p> <p>9 Q And is the monthly e-mail with your 10 achievements something that you see value in?</p> <p>11 A Well, I can look at my stats daily when I'm 12 logged into the bike. You know, you can look at 13 yourself, how many classes you've taken and all 14 that.</p> <p>15 But it's just -- it's just nice to -- to 16 see -- to see, you know, oh, okay, I did two more 17 classes this month than I did last month or, you 18 know. It's -- but then it's also -- if I did less, 19 it's reminding me how lazy I've gotten too at the 20 same time. So it's a -- a Catch-22.</p> <p>21 Q But -- but whether your achievements have 22 gone up or down, would you say that it's a -- it's a 23 benefit that Peloton kind of conglomerates that 24 together for you and presents it to you once a month 25 to check on?</p>
Page 46	Page 48
<p>1 monthly e-mail with an update of my progress, like, 2 how many classes I took, how many badges I earned, 3 what was my best class, what was my fastest rate, 4 you know, favorite, whatever they -- and then I 5 always click and, you know, look at stuff. That's 6 basically what I use their website for.</p> <p>7 Q So that e-mail links to their website, or it 8 links just to data about you?</p> <p>9 A I guess it's -- yeah, I guess it's data 10 about me. I'm considering that their website. 11 Like, I don't really go on their website. I'm not 12 looking for like, you know, shirts and Lululemon 13 stuff on Peloton --</p> <p>14 Q So to -- uh-huh.</p> <p>15 So to be clear, you don't type in, you know, 16 whatever Peloton's website is on your Google browser 17 to go visit that website for -- for any reason?</p> <p>18 A I might have. Not -- I don't recall any 19 time soon. I might have -- maybe when they -- like, 20 when we got the bike, I might have wanted to see 21 what packages that they had offered. Say, Oh, 22 great, we had a good cost savings, you know, just to 23 compare. You know, I -- I don't necessarily go on 24 their -- their website. I do react or click to 25 links that are sent to me from Peloton.</p>	<p>1 A Yes.</p> <p>2 Q Prior to purchasing your Peloton 3 subscription, did you know how much it cost?</p> <p>4 A I -- I had an approximation of a \$3,000 5 price from what friends all talked about.</p> <p>6 Q And I think that may be -- you may have 7 missed my question, so not the price of a bike but 8 the price of a subscription.</p> <p>9 Did you have an understanding of how much 10 just the membership subscription cost?</p> <p>11 A No, I actually did not know how much a 12 monthly membership subscription cost at all.</p> <p>13 Q And so the first time that you even learned 14 how much a monthly membership subscription was was 15 when it was taken out of your account; is that 16 correct?</p> <p>17 A Yes.</p> <p>18 Q Do you know today the monthly cost of a 19 Peloton subscription?</p> <p>20 A I believe it's 39.99. I'm not sure. I've 21 got to look at my joint account. I can look that up 22 in a minute if you want me to do that. But I 23 believe it's 39.99. I believe that. I'm not sure. 24 It could be --</p> <p>25 Q No reason --</p>

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<p>1 A I know it's something with 99. It's one of 2 those things, yeah.</p> <p>3 Q And no reason to look it up right now.</p> <p>4 But if Peloton were to charge you one extra 5 cent, they sent you an e-mail in that monthly e-mail 6 and said, We're now going to charge you \$40, would 7 you still pay for the subscription?</p> <p>8 A Over one penny?</p> <p>9 Q Uh-huh.</p> <p>10 A Yes, yes.</p> <p>11 Q And what if they said, We're going to raise 12 it to \$45, would you still pay for the subscription?</p> <p>13 A I would probably -- yes, to be fair, yes, I 14 would probably pay for the subscription.</p> <p>15 Q And what if they said that they were going 16 to make it \$47, would you still pay for the 17 subscription?</p> <p>18 A I want to say yes, but I don't want them 19 raising my -- my subscription for the record.</p> <p>20 Q I won't tell. Okay. Understood.</p> <p>21 Mr. Alvarado, have you ever asked a Peloton 22 employee about the number of classes that were 23 available in its on-demand library?</p> <p>24 A No, I've never asked anyone that.</p> <p>25 Q Have you ever -- I know that you -- you</p>	<p>1 not too long ago. It could be last year, you know, 2 sometime last year.</p> <p>3 Q Do you think it was prepandemic?</p> <p>4 A It -- it could be. I know it's -- it wasn't 5 like -- it's not -- definitely not two years ago, 6 but it was probably a year. It could be a year and 7 a half. I'm not exactly sure.</p> <p>8 Q Do you think it was in 2020?</p> <p>9 A It -- it could be. I don't remember the 10 date. I -- I could look it up for you if you needed 11 me to. I just don't remember a date. But I know it 12 was definitely from the Brookfield mall. It was a 13 Hispanic sales guy.</p> <p>14 And, you know, I was there with my kid, and 15 we were just -- you know, my kids recognized the 16 stuff that we take -- you know, she knows that we do 17 Peloton. We just asked a couple of questions, and I 18 was just interested to see the bike, how it has a 19 different case to hold the weights.</p> <p>20 And I -- I liked the screen because my 21 screen is stationary. It cannot turn. It's only 22 for the bike, you know, so it makes it difficult to 23 do any of the other classes that my wife likes to do 24 from the bike. You would have to stream it on your 25 TV or whatever device that she uses to do a yoga</p>
Page 50	Page 52
<p>1 mentioned that you visited a Peloton studio.</p> <p>2 Have you ever visited a Peloton 3 brick-and-mortar store?</p> <p>4 A We have one in Manhattan -- well, there's 5 several of them, but we have one in the Brook -- 6 Brookfield mall, right. And I remember just having 7 a chat with the guy just telling him, yeah, I have a 8 bike and whatever.</p> <p>9 And he was trying to -- he was trying to 10 up-sell me on something. Listen, if you have a 11 bike, you can upgrade to this newer bike, and he was 12 showing me all the features on a more modern -- they 13 have a modern version of the bike where the screen 14 turns to the side so -- right there you could do 15 like the yoga and all that class and you got all 16 this stuff. And -- you know, and it was tempting. 17 And they were telling me, Hey, you trade in your 18 bike, and you get this. And you're a veteran. You 19 know what, we have a veteran package discount too. 20 So -- and he e-mailed me a couple of times. 21 But, I mean, my wife was like, No, we're okay, you 22 know. My wife stopped me from making any decision.</p> <p>23 Q And do you remember when that conversation 24 was in the Brookfield mall?</p> <p>25 A I would say within -- within a year. It's</p>	<p>1 class or the -- they have, like, Bootcamp classes 2 now, you know.</p> <p>3 Q And aside from that conversation in the 4 Brookfield store, have you had any other 5 interactions in a Peloton store before?</p> <p>6 A No.</p> <p>7 MS. KELLERT: Adam, we've been going 8 about an hour.</p> <p>9 Would now be a good time to take a 10 break?</p> <p>11 Mr. Alvarado, do you want a five-minute 12 break?</p> <p>13 THE WITNESS: I need to go over some 14 work e-mails. That would be really helpful.</p> <p>15 MR. PROM: Yeah, a break would be 16 great, Alexis. Thank you.</p> <p>17 THE WITNESS: If you want to keep 18 going, I can keep going. It's up to you.</p> <p>19 MS. KELLERT: Let's take a five-minute 20 break. And, Mr. Alvarado, I'd just ask -- I know 21 you mentioned you were going to take some work 22 e-mails. I would just ask that you not communicate 23 with anyone about the subject matter of your 24 testimony today during the break because you're 25 still under oath.</p>

1       Does that make sense? 2       THE WITNESS: Yes. 3       THE VIDEOGRAPHER: The time is 4 10:59 a.m., and we are going off the record. 5       (Recess: 10:59 a.m. to 11:06 a.m.) 6       THE VIDEOGRAPHER: The time is 7 11:06 a.m., and we are back on the record. 8 BY MS. KELLERT: 9 Q <b>Welcome back, Mr. Alvarado.</b> 10 <b>Did you count how many classes were available in the on-demand library when you first became a member of Peloton?</b> 11 A      No, I didn't count -- count them. 14 Q <b>And what about the day after you purchased your subscription, did you count the number of classes available in the on-demand library?</b> 17 A      No, I did not count them. I just used them. 18 Q <b>And so at any time after purchasing your subscription, have you counted the number of classes available on the on-demand library?</b> 21 A      No. 22 Q <b>Let's talk about your riding habit for a moment.</b> 24 <b>How often do you use your Peloton bike per -- per month?</b> 25	Page 53  1 each other and -- you know, that's it, that's other 2 than -- you know... 3 Q <b>Prior to purchasing your subscription, did you know that Peloton offered these challenges?</b> 5 A      No, I did not know. 6 Q <b>Do you have a process for selecting what ride to do on any given day?</b> 8 A      I do. That's a good question. 9 Q <b>Thank you.</b> 10 A     Music motivates me. Instructors' styles 11 motivate me. I need -- so certain songs, you know, 12 I like in certain classes. That's why sometimes 13 I'll go back and take another class again because 14 I -- I just enjoy, you know, the songs. Like, they 15 motivate me to the point where I'm so into it and I 16 don't even know I had a workout. 17      You know, that's like some of the best 18 workouts when you just like, Wow, it's over and 19 like, you know, and -- so, yeah. 20 Q <b>And would you say tempo adds to that likability of a particular class?</b> 22 A      Tempo? What do you mean by tempo? 23 Q <b>The tempo of -- the tempo of the class, so how fast or how slow it's going.</b> 25 A      Well, they all have hills and speed. If
Page 54  1 A      I seem to average anywhere between 10 to 15 2 classes per month. That's what I -- I would think 3 my record would show, other than -- 4 Q <b>Do you -- you said other than a challenge; is that correct?</b> 6 A      They offer these challenges where you've got 7 to do 30 classes consecutively to earn a -- a badge. 8 It's like -- you know, like if you go on a 21-day 9 diet or something like that. It's a challenge and 10 you earn something. 11 Q <b>Do you find the challenge to be motivating?</b> 12 A      I mot- -- I motivate myself. It's -- it's 13 like -- I -- when I make a commitment, I stay with 14 it. And it helps me when I'm in my lazy times 15 where, oh, I don't want to work out today, and I'm 16 like, you know -- but I've got -- if I skip the day, 17 I don't earn that badge. And I'm doing it with a 18 group of people or whatever, so, you know, it helps 19 push. 20 Q <b>And earlier you mentioned that you were a group fitness type of person.</b> 22 <b>Does the challenge group atmosphere help to motivate you?</b> 24 A      It does in a real environment; not so much 25 on a virtual environment. But, you know, we look at	Page 54  1 you're saying that -- what you mean by tempo. All 2 the classes like that -- the different style -- 3 every instructor, even though they all work for the 4 same place, has a different style and how they 5 present it, and they're there to motivate you. 6      So it's really -- again, it's the 7 instructors, you know. 8 Q <b>So putting aside what you like about the class and just focusing on how you actually select the class, can you walk me through that process?</b> 11 A      How I select the class? 12 Q <b>Uh-huh, yes.</b> 13 A      Well, I -- with the features that they 14 have -- as soon as you open up, it comes up with 15 stuff they -- I guess they have an algorithm that 16 knows your pattern. And they already have, like, 17 choices of classes and timeframe of how would you 18 like to take the classes by your pattern. 19      Like, if I take a lot of 20-minute classes, 20 then a lot of 21 -- 20-minute, 30-minute classes 21 might pop up first. 22      And -- and now they have a feature that 23 shows you, like, one of your friends that you're 24 linked to that follow you has taken a class so that 25 you can earn, like, you know, duo or pack or, you

1 know, badges. So you can select it via that. 2 I tend to like music. I like genres of 3 music and instructors. Those are the two factors 4 that I look for in picking out a class. And then -- 5 again, that's my favorite thing. I like the 6 instructors, you know. <b>7 Q And so just backing up -- and I apologize, I 8 don't have a Peloton.</b> <b>9 So when you hop on your bike and you see the 10 home screen with some algorithm and suggested 11 classes, do you pick from one of the suggested 12 classes?</b> 13 A A lot of times they catch me, and I pick 14 that. But then there's times when I have time 15 constraints, and I have to tailor a class to myself. 16 I might do a 15-minute workout, 10-minute, and 17 that's -- I'm going into the libraries and doing 18 that. 19 So I go into the library, and I go, Okay, 20 I'll do a 15-minute class, and I want '70s music 21 this time or hip hop. And I pick out that. Then 22 it -- it narrows it down for me. And then -- you 23 know, then I pick out which instructor it is. 24 And, you know, sometimes it's really cool 25 to -- oh, I remember taking that class before, you	Page 57 1 But I'm still trying to learn that because 2 they've got so many new features out there. I'm not 3 a techy. I don't know that. I didn't know -- I 4 just found out recently that -- I thought -- like, 5 I'm always wondering, why do I have a camera on my 6 Peloton bike? Are they watching me pick my nose 7 when I'm spinning in my home? 8 I didn't know that they had a feature that 9 stated that we can ride live with my friends at the 10 same time until one of my friends told me that. I 11 was like, Oh, okay, like, you know. But I've never 12 done that before. You can look up my record. I've 13 never done it. 14 I don't know how to set it up; I don't know 15 how to use it. No one has trained me -- or sent me 16 a schematic on how to do that. But they have a lot 17 of bells and whistles they keep adding on 18 constantly. <b>19 Q So fair to say that there are a lot of 20 features on your Peloton bike and through your 21 membership that you don't even know about or you 22 haven't yet unlocked; is that right?</b> 23 A Yes, that's right. <b>24 Q And these -- these all add incremental value 25 that you're just yet to uncover; is that right?</b>
Page 58 1 know, and it's an older class, and I'll go on and 2 take that class, you know. <b>3 Q And I think you mentioned that some of the 4 time Peloton catches you.</b> <b>5 And what you mean by that is you're picking 6 from their preselected options.</b> <b>7 Is that what you meant?</b> 8 A When you open up the screen and it's like 9 welcome, you know, like -- like when you log in, 10 it -- they have all this information. There's -- 11 there's a -- on the top right hand, there's a -- 12 telling you what class that's going to be live or, 13 per se, live because they have this new beta thing 14 where they're -- you can do a prerecorded class with 15 live people in it but the class is actually not 16 live. That's something that's new. 17 And they'll have, like, a little clock there 18 telling you, Hey, you can sign up for that; in three 19 minutes, it's going to go on or -- you know, and 20 then they have a screen or -- that you scroll 21 through that's just telling you classes that they 22 think are your favorites or ones that you might have 23 taken before if you want to take it again and 24 then -- you know, there's -- I have to be in front 25 of it to show you all the features.	Page 59 Page 60 1 MR. PROM: Objection to the form. 2 BY MS. KELLERT: <b>3 Q You can answer if you understood.</b> 4 A It's a value when it becomes a value. You 5 know, if it's something that I enjoy or use, you 6 know -- I'm old school. I just put the music on, 7 put my cleats on, and spin. Turn the knob, turn the 8 knob this way, turn the knob that way. That's all I 9 want from it, you know. <b>10 Q And going back to your class selection 11 process, how -- what percentage of the time are you 12 tailoring your selection looking for a specific 13 timeframe of class?</b> 14 A Every time I log on. That's the -- the main 15 purpose. As soon as I log on, I'm trying to figure 16 out something. 17 But sometimes my wife might say, I took a 18 class in the morning; you might like it. You know, 19 Ally Love had a cool class; you're gonna like it, 20 you know. So you get recommendations too, my wife 21 and I. We do the same. 22 I take a class that I like, I say, you know, 23 They had the Allman Brothers, and she likes the 24 Allman Brothers. I'm like, You'll like this class. 25 You know, we refer to each other.

<p style="text-align: right;">Page 61</p> <p>1 Q <b>What is your least favorite type of ride?</b></p> <p>2 A My least -- because I like all the workouts.</p> <p>3 But my least favorite ride is like that -- well,</p> <p>4 there's two types. I'm not into, like, the ride</p> <p>5 that's, like, for a professional biker. I'm not</p> <p>6 Lance Armstrong. I'm not trying to do the Tour de</p> <p>7 France. So they offer, like, those type of classes.</p> <p>8 Okay, so that's one.</p> <p>9 Second, I'm not into all that EDM music,</p> <p>10 that stuff, you know. I probably -- like, I'll</p> <p>11 dance -- I'll spin to a country theme, which they</p> <p>12 have. But the EDM thing, it almost all sounds the</p> <p>13 same. You know, I -- yeah, I guess -- you know,</p> <p>14 that's me. But other than that, I like -- I like</p> <p>15 the hip hop; I like '70s, '60s music.</p> <p>16 They recently created a thing called artist</p> <p>17 series. So when they had the Beatles -- I'm a big</p> <p>18 Beatle fan -- I did the Beatles ride. You know,</p> <p>19 they just recently came out yest- -- this week --</p> <p>20 when I was spinning this week, I see a flag that</p> <p>21 they put up saying Spice Girls. They're going to</p> <p>22 have a Spice Girls thing, so you can do a Spice Girl</p> <p>23 ride, you know.</p> <p>24 Q <b>And was the artist series something that you</b></p> <p>25 <b>knew about prior to purchasing your subscription?</b></p>	<p style="text-align: right;">Page 63</p> <p>1 A I --</p> <p>2 MR. PROM: Objection to the form.</p> <p>3 BY MS. KELLERT:</p> <p>4 Q <b>You can answer if you know.</b></p> <p>5 A I don't have a receipt from them. I just</p> <p>6 looked and -- scrolled back and looked at deductions</p> <p>7 from my joint account that I had there, you know,</p> <p>8 and I saw the --</p> <p>9 Q <b>And fair -- and fair to say that your wife</b></p> <p>10 <b>could look into her account and see much -- see how</b></p> <p>11 <b>much she was being charged monthly; is that correct?</b></p> <p>12 A In normal circumstances, I would say yes.</p> <p>13 My wife is terrible when it comes to the finances.</p> <p>14 She just spends my money.</p> <p>15 Q <b>But nothing preventing her from checking to</b></p> <p>16 <b>see how much she's spending on a Peloton</b></p> <p>17 <b>subscription per month, correct?</b></p> <p>18 MR. PROM: Objection to the form.</p> <p>19 BY MS. KELLERT:</p> <p>20 Q <b>You can answer if you know.</b></p> <p>21 A Yes, all she has to do is log on. But then,</p> <p>22 again -- again, I'm telling you, she doesn't log on</p> <p>23 for anything. I'm the one who's catching, Why are</p> <p>24 you spending all this money on groceries; why are</p> <p>25 you buying this on Amazon. She's the one that</p>
<p style="text-align: right;">Page 62</p> <p>1 A No.</p> <p>2 Q <b>Did Peloton raise the price of your</b></p> <p>3 <b>subscription when they offered the beta live -- or</b></p> <p>4 <b>the beta class where it's semi-live?</b></p> <p>5 MR. PROM: Objection to the form.</p> <p>6 BY MS. KELLERT:</p> <p>7 Q <b>You can answer if you know.</b></p> <p>8 A I don't recall. I know that my price</p> <p>9 changed, but I don't recall. And to be honest with</p> <p>10 you, it's -- it's a subscription. It's in my joint</p> <p>11 account. I don't get an invoice.</p> <p>12 Like, if Peloton invoiced me every month on</p> <p>13 an e-mail saying you just paid your bill, I can give</p> <p>14 you better data. I get that with Con Ed and with my</p> <p>15 Verizon and all that. I don't get that from</p> <p>16 Peloton, so I don't know.</p> <p>17 They could charge me \$2,000 and I wouldn't</p> <p>18 know, you know, unless I log into my bank account</p> <p>19 and see \$2,000 was missing. Like, I don't know.</p> <p>20 I just recently looked, and I saw that there</p> <p>21 was a price change to -- I think that went into</p> <p>22 effect in January or February or something like</p> <p>23 that.</p> <p>24 Q <b>And do you think that you have a -- a notice</b></p> <p>25 <b>of that price change somewhere?</b></p>	<p style="text-align: right;">Page 64</p> <p>1 just -- it's like a money tree.</p> <p>2 Q <b>Mr. Alvarado, you initially filed an</b></p> <p>3 <b>arbitration demand against Peloton; is that correct?</b></p> <p>4 A I am -- I think that's why I'm here.</p> <p>5 Am I not correct?</p> <p>6 Q <b>Do you have an understanding that you filed</b></p> <p>7 <b>an arbitration demand?</b></p> <p>8 A I filled out a -- an advertisement that was</p> <p>9 sent to me via social media about a claim, like, to</p> <p>10 file a lawsuit or a claim or -- I don't know. You</p> <p>11 use the word arbitration and all that dealing</p> <p>12 with -- for Peloton -- Peloton subscribers, and I</p> <p>13 filled that --</p> <p>14 Q <b>And what attracted you to click on that</b></p> <p>15 <b>social media advertisement?</b></p> <p>16 A Kept popping up all the time.</p> <p>17 Q <b>And --</b></p> <p>18 A And I have a Peloton bike, so it's</p> <p>19 applicable.</p> <p>20 MS. KELLERT: Kimberly, can we see</p> <p>21 Tab 17, please?</p> <p>22 And we're marking for the record a</p> <p>23 document that says Attorney Advertising in the upper</p> <p>24 right-hand corner. And at the top in very faint</p> <p>25 writing, it says, Peloton Compensation Claims. And</p>

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<p>1 in the middle of the page in pretty bold letters, it 2 says, Are you a Peloton member? 3 (Marked Exhibit No. 3.) 4 BY MS. KELLERT: 5 Q <b>Do you see where I'm looking on Exhibit 3,</b> 6 <b>Mr. Alvarado?</b> 7 A Yes. 8 Q <b>And is this the advertisement that you saw</b> 9 <b>on social media that kept popping up?</b> 10 A It looks different because I believe it was, 11 like, more like black screened on that. 12 Q Okay. 13 A It came up during my Instagram -- when 14 you're, like, looking at videos, and it just goes 15 onto the next person's video. It was, like, one of 16 those in-between commercial ads I guess you want to 17 call it. But something like that. 18 Q Okay. 19 A But then you click on it, and then you have 20 to fill out a form. 21 Q <b>And on the advertisement that you clicked</b> 22 <b>on, do you remember any of the text that was on it?</b> 23 <b>Do you remember what it said?</b> 24 A I don't recall. 25 MS. KELLERT: Kimberly, we can pull</p>	<p>1 Q <b>Did you ever make sure that the information</b> 2 <b>about you in the arbitration demand was accurate?</b> 3 MR. PROM: Same objection to the extent 4 it calls for attorney-client privileged 5 communications. 6 BY MS. KELLERT: 7 Q <b>Do you know if you ever had an oppor- -- do</b> 8 <b>you know if you ever reviewed the information in the</b> 9 <b>demand to make sure it was accurate?</b> 10 A I -- whatever I filled out I filled out, you 11 know, truthfully and accurately on any forms that I 12 filled out. But I don't recall looking specifically 13 at anything before it was submitted or something 14 like that. 15 I know whatever forms that were online and I 16 filled out and put my information... 17 Q <b>And after filling out the forms online, were</b> 18 <b>you provided with any document that you looked at</b> 19 <b>that you believe was submitted thereafter?</b> 20 MR. PROM: Same objection. 21 Mr. Alvarado, do not reveal any 22 attorney-client privileged communications. 23 BY MS. KELLERT: 24 Q <b>Are you able to answer my question?</b> 25 A Can you repeat it again because I -- I...</p>
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<p>1 this -- pull Exhibit 3 down. 2 BY MS. KELLERT: 3 Q <b>Do you know when you first filled out that</b> 4 <b>questionnaire or form that you just mentioned?</b> 5 A I don't remember exactly when. To be honest 6 with you, I don't. 7 Q <b>Do you recall when your arbitration demand</b> 8 <b>was actually submitted?</b> 9 A No, I don't remember that date at all. 10 Q <b>Did you have an opportunity to review the --</b> 11 <b>the substance, the text of the arbitration demand</b> 12 <b>prior to its submission?</b> 13 MR. PROM: Objection to the extent it 14 calls for attorney-client privileged communications. 15 Mr. Alvarado, I'll just remind you not 16 to reveal anything discussed between you and your 17 attorneys. 18 BY MS. KELLERT: 19 Q <b>You can answer if you know.</b> 20 A Can you repeat the question, please? 21 Q Sure. 22 Did you have a chance to review the actual 23 document, the actual arbitration demand prior to it 24 being submitted? 25 A I don't recall.</p>	<p>1 Q Sure. 2 So aside from any information that you input 3 into a questionnaire, were you thereafter provided 4 with a document that you reviewed for accuracy about 5 your arbitration demand? 6 A I don't recall. 7 Q Do you know what law firm it was that you 8 filled out the initial questionnaire from social 9 media? 10 A I don't remember the law firm when I filled 11 it out on social media. I remember the law firm who 12 communicated to me about it. 13 Q And without revealing the substance of that 14 communication, which law firm communicated with you 15 about your submission of the questionnaire? 16 A I believe it's Kellner [sic]. 17 Q Mr. Alvarado, was the purpose of your 18 arbitration demand to recover money from Peloton, or 19 was there another purpose? 20 MR. PROM: Objection to the form. 21 BY MS. KELLERT: 22 Q You can answer if you understand my 23 question. 24 A I -- anything that deals with products that 25 I purchase, use, that has class action suits,</p>

<p>1 including time in the service and military or -- 2 like, we're dealing with stuff with hearing aids 3 that they gave us for rifle range, all that, I fill 4 out the forms, and I apply for class action suits.</p> <p>5 <b>Q And about how many class action suits do you believe that you've applied for?</b></p> <p>7 A Me, personally, probably maybe three that I'm aware of. I mean, my wife does it quite often but not myself. I -- you know...</p> <p>10 <b>Q And how many class action lawsuits do you believe that your wife has submitted to?</b></p> <p>12 A I have no idea.</p> <p>13 <b>Q More than ten?</b></p> <p>14 A More than me. That's all I can state.</p> <p>15 So -- I said around three for me. It's more than me.</p> <p>17 <b>Q Do you believe that --</b></p> <p>18 A Again --</p> <p>19 <b>Q Sorry. Go ahead.</b></p> <p>20 A Products and services that are applicable to us, you know.</p> <p>22 <b>Q And do you believe that your wife also filed an arbitration demand against Peloton?</b></p> <p>24 MR. PROM: Objection to the form.</p> <p>25 THE WITNESS: I don't know. I don't</p>	<p>Page 69</p> <p>1 if you want to call that harm, that doesn't harm me, 2 but it's -- it's not, like, something that -- I was 3 promised that I can have a full library. I -- 4 there's classes I've taken in place.</p> <p>5 I've told you I've been taking it since 6 2014. I want to go to the library sometimes and 7 pull up a class that I took where you can see me in 8 the audience with -- and I can't do that anymore. 9 It's gone.</p> <p>10 BY MS. KELLERT:</p> <p>11 <b>Q Do you remember what class specifically that was that you would want to retake?</b></p> <p>13 A I would have to scroll through the 14 instructors. Like, one of my favorite instructors 15 was Stephanie Nieman. Stephanie Nieman is no longer 16 an instructor at Peloton.</p> <p>17 And I wanted to go look at her classes when 18 she was the head -- head instructor there. And she 19 was one of my -- my favorite instructors from 20 another studio. And I can't take her class. She's 21 one -- to this day, she's one of my favorite spin 22 instructors, more than any of the active Peloton 23 instructors now, and it's gone. I can't find it.</p> <p>24 <b>Q Did anybody -- prior to purchasing your bike and subscription, did anybody ever promise you that</b></p>
<p>1 think so. I don't know.</p> <p>2 BY MS. KELLERT:</p> <p>3 <b>Q Did you ever dis- -- withdrawn.</b></p> <p>4 <b>How much money -- withdrawn.</b></p> <p>5 <b>Do you believe that you're entitled to recover money from Peloton?</b></p> <p>7 MR. PROM: Objection to the form, calls 8 for a legal conclusion, expert testimony.</p> <p>9 You can answer if you know,</p> <p>10 Mr. Alvarado.</p> <p>11 THE WITNESS: I don't know at all, you 12 know.</p> <p>13 BY MS. KELLERT:</p> <p>14 <b>Q Do you believe that you have incurred any specific harm from Peloton?</b></p> <p>16 MR. PROM: Same objections.</p> <p>17 THE WITNESS: What I know is that I'm 18 not physically harmed. However, as a consumer -- 19 this is besides loving Peloton and the workouts and 20 specifically the instructors, you know, I like 21 having the ability to go and do old classes again, 22 take certain music, genres.</p> <p>23 And not having that ability to go back 24 to something in the library and not being told that 25 that specific class was taken out, you know, that --</p>	<p>Page 70</p> <p>1 <b>Ms. Nieman's class would never be taken down?</b></p> <p>2 A No one ever promised me anything, like, from 3 Peloton in reference to their library and catalog of 4 products.</p> <p>5 But it was implied that, you know, they're 6 forever having a growth of products. And I'm always 7 thinking, hey, every time I log in and I take a 8 class, that class I took is cataloged and -- every 9 day.</p> <p>10 So technically if they have 20 classes a 11 day, that means that's 20 classes that that day are 12 now I can go back to.</p> <p>13 And, you know, there's certain classes that 14 just are really fun classes that are really cool, 15 and I like to go back to them.</p> <p>16 <b>Q So aside from the Stephanie Nieman classes, have you ever had the experience where you went specifically to take a class that was no longer available?</b></p> <p>20 A Other than her, yeah, I would say that's 21 correct.</p> <p>22 <b>Q What's correct? So there are -- you can't -- can you explain that to me a little bit?</b></p> <p>24 <b>So maybe we missed each other.</b></p> <p>25 <b>Aside from the Nieman classes being taken</b></p>

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<p>1 down, are there any others that you specifically 2 recall going to take that you were unavailable to 3 take?</p> <p>4 A Hers specifically. Other classes, I -- I 5 have found that -- that I wanted to take. But I 6 don't know what's not available if it's not there 7 anymore, so it's -- it makes it -- you know, I 8 had -- I had no idea they were going to remove, you 9 know, an abundance of classes.</p> <p>10 Q And earlier you mentioned that you weren't 11 harmed, per se.</p> <p>12 Q Would you say it was more of an 13 inconvenience that these classes were taken down?</p> <p>14 MR. PROM: Objection to the form, 15 misstates his testimony.</p> <p>16 BY MS. KELLERT:</p> <p>17 Q You can answer if you understand.</p> <p>18 A It's definitely an inconvenience. I -- 19 listen, I don't run Peloton. It's -- you know, and 20 I get -- I get you're doing live classes, you know. 21 They -- I assume if -- if -- I've been to live 22 classes where the mic went out on the instructor, 23 and the music messed up. 24 I can -- I can see them not wanting to, 25 like, catalog that class because it was live and</p>	<p>1 leaving; they got new ones. And I like to go back 2 to some of their older instructors and --</p> <p>3 Q And taking a step back -- I understand what 4 you're saying about the desire to retake old classes 5 that you liked.</p> <p>6 Q But earlier I believe you testified that you 7 don't know what classes were taken down, right?</p> <p>8 A No, I -- I don't. I just --</p> <p>9 Q And --</p> <p>10 A -- remember that one specific person, 11 because -- off the top of my head, you know.</p> <p>12 Q Right.</p> <p>13 Q And putting aside Ms. Nieman's classes, of 14 the other classes that were removed, do you have any 15 basis to believe that you would have had any 16 interest in taking them?</p> <p>17 MR. PROM: Objection to the form.</p> <p>18 THE WITNESS: Well, I definitely want 19 to -- and I was trying to show both my wife and kids 20 classes that they could see me in prior to me 21 actually purchasing a bike. And I can't cat- -- I 22 can't find those classes.</p> <p>23 BY MS. KELLERT:</p> <p>24 Q And aside from that, which I believe are the 25 Stephanie Nieman classes, for example, if 10,000 --</p>
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<p>1 then delete it and all that. But I don't think they 2 should be -- they should just catalog all their 3 classes and keep it on -- on file. You know, they 4 have that capability.</p> <p>5 Q What forms the basis of your belief that you 6 would have had interest in the classes that were 7 taken down?</p> <p>8 A Well --</p> <p>9 MR. PROM: Objection to the form.</p> <p>10 THE WITNESS: -- even right now -- 11 we're in 2021, and you said I took a class on 12 Monday. Five years from now, I might want to take 13 that class again just -- if I want to take it again 14 because I liked the music or I had a good time with 15 that person. And if it's gone, you know, they 16 should just let me know it's going to be gone. 17 As a consumer --</p> <p>18 BY MS. KELLERT:</p> <p>19 Q And just --</p> <p>20 A They advertise constantly stuff to me and 21 sending me things. Just let me -- let us know. You 22 know, I'm saying for me specifically. I can't talk 23 about the other consumers. 24 But with me, I -- there's certain 25 instructors I like, and some instructors have been</p>	<p>1 we talked earlier that -- you mentioned you don't 2 really like EDM music; is that correct?</p> <p>3 A Yes, I do not like EDM music.</p> <p>4 Q If Peloton removed all of its EDM classes, 5 do you believe that you would still be harmed?</p> <p>6 MR. PROM: Objection to the form.</p> <p>7 THE WITNESS: Me personally, I don't 8 care for that music, but I'm sure there's a whole 9 bunch of fans that are subscribed to Peloton, you 10 know, and that's something that you would have to 11 take up with them.</p> <p>12 BY MS. KELLERT:</p> <p>13 Q And just testifying for you, you personally, 14 is it fair to say you would not be harmed if Peloton 15 removed all EDM classes?</p> <p>16 MR. PROM: Objection to the form, calls 17 for a legal conclusion, expert testimony.</p> <p>18 THE WITNESS: I just think they should 19 specifically let the consumer know in advance what 20 they're doing.</p> <p>21 BY MS. KELLERT:</p> <p>22 Q Right.</p> <p>23 Q And putting aside what Peloton should do as 24 its policy, in answer to my question, if Peloton 25 removed all of its EDM classes, do you believe that</p>

<p style="text-align: right;">Page 77</p> <p>1 <b>you would still be harmed?</b></p> <p>2 MR. PROM: Same objection.</p> <p>3 THE WITNESS: I don't know about --</p> <p>4 when I hear harm, you're talking to, again, a former</p> <p>5 Marine. Like, no one has shot me. I'm living; I'm</p> <p>6 still breathing. You know, I don't -- it's -- you</p> <p>7 know, I'm not harmed. That's not how I define being</p> <p>8 harmed, physically.</p> <p>9 But, you know, it's -- they should just</p> <p>10 let -- let us know as a consumer.</p> <p>11 They let me know about a lot of other</p> <p>12 things. You know, it's a simple detail that we're</p> <p>13 going to be removing, you know, 10,000 rides from</p> <p>14 our catalog, but we're bringing in the new variety</p> <p>15 or such and such just because -- you know, they</p> <p>16 advertise different things.</p> <p>17 Again, like, they didn't advertise all</p> <p>18 these features that I'm figuring out on my own on a</p> <p>19 on-the-job training basis, you know.</p> <p>20 BY MS. KELLERT:</p> <p>21 Q Right.</p> <p>22 And, Mr. Alvarado, I think I'm not</p> <p>23 understanding maybe your answer to my question, but</p> <p>24 I'll try rephrasing it.</p> <p>25 If Peloton today were to remove all of its</p>	<p style="text-align: right;">Page 79</p> <p>1 talking about, Hey, buy a bike and fitness, you</p> <p>2 know, when you're sitting there like a couch potato.</p> <p>3 And I was seeing a couple of my instructors, oh,</p> <p>4 look they're on TV, you know.</p> <p>5 And I remember seeing basic commercials</p> <p>6 about that. And when they did advertise back in</p> <p>7 2014, '15 and so on, you know, having a bike that</p> <p>8 was a prestigious -- how would you say?</p> <p>9 It was like a -- it was like a big thing to</p> <p>10 have a Peloton bike because, like, you know,</p> <p>11 Puff Daddy had one, and this celebrity had one. And</p> <p>12 that's why I was very reluctant when my wife -- I</p> <p>13 don't have Puff Daddy money. I don't want to have a</p> <p>14 bike in my living room. You know, it's expensive.</p> <p>15 And if you had one, it showed that you had money.</p> <p>16 There was certain status to it, so...</p> <p>17 And they would advertise, you know, during</p> <p>18 the wee hours of the night when I first started</p> <p>19 seeing advertisements on national TV with Peloton,</p> <p>20 all that.</p> <p>21 Now there's -- obviously, you can watch</p> <p>22 commercials every day with them.</p> <p>23 Q Has any advertisement informed your decision</p> <p>24 to purchase a subscription?</p> <p>25 A No.</p>
<p style="text-align: right;">Page 78</p> <p>1 <b>EDM classes, would your subscription be any less</b></p> <p>2 <b>valuable to you?</b></p> <p>3 MR. PROM: Same objections, asked and</p> <p>4 answered at this point multiple times.</p> <p>5 BY MS. KELLERT:</p> <p>6 Q You can answer if you know.</p> <p>7 A I would still ride on Peloton.</p> <p>8 Q And so the answer to my question is no; is</p> <p>9 that right?</p> <p>10 MR. PROM: Same objections.</p> <p>11 THE WITNESS: I will continue riding</p> <p>12 with Peloton.</p> <p>13 BY MS. KELLERT:</p> <p>14 Q Mr. Alvarado, have you ever seen an</p> <p>15 advertisement for Peloton prior to purchasing your</p> <p>16 subscription?</p> <p>17 A Yes.</p> <p>18 Q And what advertisement did you see?</p> <p>19 A They started advertising years ago, way</p> <p>20 before I even got a subscription. I remember when</p> <p>21 they first started -- and this is because I'm --</p> <p>22 again, I'm in the hands of the instructor.</p> <p>23 So they started advertising just like all</p> <p>24 these people do at, like, 2:00 in the morning,</p> <p>25 3:00 in the morning, and those channels when they're</p>	<p style="text-align: right;">Page 80</p> <p>1 Q Mr. Alvarado, at any time, did you consider</p> <p>2 selling your bike on the secondary market?</p> <p>3 A No. And I had no clue there was a secondary</p> <p>4 market.</p> <p>5 Q Mr. Alvarado, isn't it the case that you --</p> <p>6 you yourself purchased a bike on the secondary</p> <p>7 market?</p> <p>8 A My wife purchased out of our joint account</p> <p>9 the bike and got it through one of her friends, but</p> <p>10 I had no idea that there was a secondary market</p> <p>11 after the fact.</p> <p>12 I did not know that people were selling</p> <p>13 their bikes, like, on Craigslist or eBay or</p> <p>14 whatever. And -- and the reason I state that</p> <p>15 specifically is because once I got my bike and was</p> <p>16 posting on social media, friends were like, Hey,</p> <p>17 where did you get the bike from, you know; how much</p> <p>18 did it cost?</p> <p>19 And I -- it felt like -- I didn't pay what</p> <p>20 Puff Daddy paid. I paid \$1,200, you know, like --</p> <p>21 and I got it through this way. And they were like,</p> <p>22 Whoa, is it -- you know, and that's how I found out</p> <p>23 that people were actually selling these things, you</p> <p>24 know, through other venues than --</p> <p>25 Q Understood.</p>

<p style="text-align: right;">Page 81</p> <p>1     <b>And -- and you understood following the 2 purchase of your own bike that you too could sell a 3 bike to a friend, correct?</b></p> <p>4 A     I can sell anything to anybody if I had to.</p> <p>5 Q     Right.</p> <p>6     <b>And at any time, did you consider selling 7 your bike to a friend or somebody else?</b></p> <p>8 A     No. It's my bike. I have no intentions of 9 selling it, other than speaking to the Peloton 10 gentleman who tried to convince me to upgrade, which 11 meant I would have to trade the actual physical bike 12 in.</p> <p>13 Q     <b>Have you ever called Peloton's customer 14 service at any time?</b></p> <p>15 A     I don't believe so. Maybe my wife did, but 16 not me.</p> <p>17 Q     <b>Do you believe that you know how to call 18 Peloton's customer service?</b></p> <p>19 A     I would probably --</p> <p>20         MR. PROM: Objection to the form.</p> <p>21         THE WITNESS: I'm sorry.</p> <p>22 BY MS. KELLERT:</p> <p>23 Q     <b>You can answer if you know.</b></p> <p>24 A     I could look it up. You know, I'm -- I 25 could just Google it or -- or so, but...</p>	<p style="text-align: right;">Page 83</p> <p>1     <b>customer service to complain that classes were taken 2 down from the on-demand library?</b></p> <p>3 A     No.</p> <p>4 Q     Earlier you mentioned that you take between, 5 I think you said, 10 and 15 classes per month unless 6 there's a challenge; is that right?</p> <p>7 A     Yes.</p> <p>8 Q     <b>Following the takedown of classes, have you 9 ever been unable to find 15 classes to take per 10 month?</b></p> <p>11 A     No. I -- you can always find something to 12 take.</p> <p>13         MS. KELLERT: I'm just going to check 14 my notes, Adam. I should be done in -- within a 15 minute.</p> <p>16         But if I can have a two-minute break, 17 would that be okay with Mr. Alvarado?</p> <p>18         MR. PROM: That sounds good.</p> <p>19         THE WITNESS: You need a break again?</p> <p>20         MS. KELLERT: Can -- we're just going 21 to take a two-minute break so I can look over my 22 notes. I should be done.</p> <p>23         THE WITNESS: Sure.</p> <p>24         THE VIDEOGRAPHER: The time is 25 11:43 a.m., and we are going off the record.</p>
<p style="text-align: right;">Page 82</p> <p>1 Q     <b>And would it refresh your recollection if I 2 told you that you inquired with Peloton about making 3 your screen swivel screen? Do you remember placing 4 a customer service call about that?</b></p> <p>5 A     Yes. Yes. Thank you. Yes, correct.</p> <p>6         I remember when I saw the swivel screen, 7 asking if there was a part -- a part that can be 8 retrofitted or I can purchase it or whatever so that 9 I can just make my screen swivel for, again, the 10 other classes that they offer so that my wife could 11 just tilt it to be similar to the -- the bike that 12 they have.</p> <p>13         And I was upset, and so was my wife, the 14 fact that they don't do that because we figured that 15 they're trying to push you into getting their newer 16 bike. And, you know, they won't retrofit us who 17 have the older model, so I wasn't happy about that.</p> <p>18         But, yeah, I did ask -- I did call them 19 asking that.</p> <p>20 Q     <b>Certainly when you have a question for 21 Peloton, you knew how to reach out to them to make 22 that question known; is that right?</b></p> <p>23 A     Yeah, I looked up the number, like I said. 24 I looked up customer service --</p> <p>25 Q     <b>At any -- at any time, did you call Peloton</b></p>	<p style="text-align: right;">Page 84</p> <p>1         (Recess: 11:43 a.m. to 11:44 a.m.)</p> <p>2         THE VIDEOGRAPHER: The time is 3 11:44 a.m., and we are back on the record.</p> <p>4         MS. KELLERT: Mr. Alvarado, thank you 5 very much for your time. I have no further 6 questions.</p> <p>7         THE WITNESS: You're welcome.</p> <p>8         MR. PROM: I do have some follow-up 9 questions, Mr. Alvarado. Thank you so much for all 10 of your time.</p> <p>11         E X A M I N A T I O N</p> <p>12 BY MR. PROM:</p> <p>13 Q     <b>First, a little bit earlier, do you recall 14 testifying in response to Ms. Kellert's question 15 about promises from Peloton? Do you recall those 16 questions?</b></p> <p>17 A     Yes.</p> <p>18 Q     <b>And I believe you mentioned something along 19 the lines of the growth of products.</b></p> <p>20         <b>Do you recall saying that?</b></p> <p>21         MS. KELLERT: Objection to form, 22 mischaracterizes his testimony.</p> <p>23 BY MR. PROM:</p> <p>24 Q     <b>You can answer.</b></p> <p>25         <b>Do you recall that testimony a little bit</b></p>

1 ago, Mr. Alvarado? 2 A Yes. 3 Q What did you mean by growth? What were you 4 referring to? 5 A Their catalog builds every day. It's 6 nonstop. It's forever growing constantly as every 7 day there's classes from all the different 8 instructors. They -- they catalog everything. It 9 just keeps cataloging itself. 10 Q So the phrase ever growing, have you heard 11 that before? 12 A Yes, forever growing. They're just 13 constantly building their catalog. 14 Q Do you recall where you heard the phrase 15 ever growing or ever-growing library of classes? 16 A Not -- I don't recall. I don't remember. 17 Q Is it fair to say that at some point, you 18 recall seeing or hearing some -- that phrase 19 somewhere? 20 MS. KELLERT: Objection, asked and 21 answered. 22 THE WITNESS: Yeah, it could be from 23 probably one of the advertisements or -- you know, 24 but, like -- to know specifically -- I just know 25 that as a consumer, having their -- their product,	Page 85 Page 87 1 large portion of classes? 2 MS. KELLERT: Objection, leading the 3 witness. 4 THE WITNESS: I don't know exactly when 5 they removed them. I did remember getting an e-mail 6 from the CEO that I think was a -- like an e-mail in 7 general that they sent out to all subscribers and 8 people who are members specifically stating about 9 having some publishing issues with publishing and 10 music and that they were going to be removing -- 11 they didn't give a specific number, but there was 12 going to be some removing of catalog stuff from -- 13 because of music. So, you know, that's all I 14 remember was just an e-mail that was sent based 15 on -- on music and rights -- music rights. 16 And at -- I mean, I read it. I didn't 17 think anything of it. It was just -- I know, like, 18 when I post something with music in -- on social 19 media, I get, like, a little -- a naughty letter 20 saying, Hey, you know, did you have the rights; 21 we're going to have to mute it or delete it, you 22 know. And I assumed it had to do something with 23 that. 24 BY MR. PROM: 25 Q So why didn't you think more of that
1 it's constantly building. Like, if I take a class 2 today, it's already on -- on a file, like on a 3 catalog. You go back to it immediately. 4 BY MR. PROM: 5 Q So the fact that Peloton is adding classes 6 to the library and this phrase ever-growing library, 7 was that important to your purchase of the bike and 8 subscription? 9 A Yes. 10 MS. KELLERT: Objection. 11 BY MR. PROM: 12 Q Why was it important to your purchase 13 decision? 14 A Well, again, I like the fact that I can go 15 back and take classes of my favorite instructors and 16 different music genres. 17 Q Did you believe before March 2019 that 18 Peloton had an ever-growing library of classes? 19 A Yes. 20 Q Did you believe after March of 2019 that 21 Peloton had an ever-growing library of classes? 22 A After 2019? 23 Q After March of 2019 specifically. 24 A Yes. 25 Q So do you recall when Peloton removed a	Page 86 Page 88 1 communication you received from Peloton? Was it -- 2 why -- why didn't you think more of it when they 3 were saying they were removing classes? 4 A I -- 5 MS. KELLERT: Objection, vague. 6 BY MR. PROM: 7 Q You can answer. 8 A Oh. I -- I didn't know they were going to 9 remove, you know, whatever quantities they did. I 10 still don't -- to this day, I don't know how many 11 classes they removed, but it -- they could have 12 given that, you know, attention to detail. 13 They brought up a lot -- they brought up all 14 the different music companies that they had licenses 15 with and the ones that they don't have and that 16 they're going to -- you know, this was happening. 17 That's what I remember of the letter that the CEO 18 sent out, you know. 19 But they didn't say, Hey, we're going to 20 remove 20,000 classes, but we're going to replace 21 them or something like that. Didn't state anything 22 like that. It just talked about their licensing 23 issues and removing classes based on music, you 24 know. 25 Q And earlier you were testifying about, you

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<p>1 know, your desire to be informed as a consumer.</p> <p>2 Do you wish Peloton would have told you how</p> <p>3 many classes they were going to remove in March of</p> <p>4 2019?</p> <p>5 A Yes.</p> <p>6 Q Why would that have been important to you to</p> <p>7 know?</p> <p>8 A It just -- it gives me the options of</p> <p>9 understanding what's going on with the product that</p> <p>10 I purchase monthly. I like to know all the details,</p> <p>11 good or bad. I just like to know.</p> <p>12 Q So after the -- the removal of classes that</p> <p>13 we're talking about, after that point, do you</p> <p>14 believe Peloton's library was ever growing?</p> <p>15 A Yes, I assume -- I assume that it's growing</p> <p>16 every day as we speak, because while we're talking</p> <p>17 right now, there's a class going on live, and then</p> <p>18 it gets cataloged.</p> <p>19 Q So, for example, if Peloton removed ten</p> <p>20 classes and then the next day added five classes to</p> <p>21 the library, would that be ever growing in your</p> <p>22 opinion?</p> <p>23 A It's an addition, but it's not -- it's not</p> <p>24 surpassing the number that was deleted. You're</p> <p>25 supposed to -- ever growing is just constantly just</p>	<p>1 see their father and let them ride.</p> <p>2 Sometimes my kids will ride on the bike</p> <p>3 and let them see -- I was in the audience, and you</p> <p>4 can see me because I tend to sit on the front row</p> <p>5 with the instructors, and you can see me, and it's</p> <p>6 not there anymore.</p> <p>7 BY MR. PROM:</p> <p>8 Q So are you disappointed that Peloton said</p> <p>9 they were going to give you an ever-growing library</p> <p>10 but then removed classes without your knowledge?</p> <p>11 A Yes --</p> <p>12 MS. KELLERT: Objection,</p> <p>13 mischaracterizes his testimony.</p> <p>14 BY MR. PROM:</p> <p>15 Q You can answer.</p> <p>16 A Yes.</p> <p>17 Q Is that why you filed an arbitration claim</p> <p>18 against Peloton?</p> <p>19 A I filed an arbitration claim based on the</p> <p>20 advertisement that was sent as a consumer about what</p> <p>21 was going on with the company. And as a consumer of</p> <p>22 the product, I filled out the claim and then was</p> <p>23 also researching more and more after the fact on all</p> <p>24 the aspects of why, you know, this was going on and</p> <p>25 realizing how it's bigger -- it was bigger than what</p>
Page 90	Page 92
<p>1 building, building upon.</p> <p>2 MR. PROM: One moment. I'm just</p> <p>3 checking some notes, Mr. Alvarado.</p> <p>4 BY MR. PROM:</p> <p>5 Q Why do you still ride Peloton today, even</p> <p>6 though Peloton removed classes from the on-demand</p> <p>7 library in March of 2019?</p> <p>8 A The bike is in my living room, okay. And I</p> <p>9 enjoy the workout, the exercise of it, and I have</p> <p>10 fun doing it.</p> <p>11 Q So is it fair to say you still ride Peloton</p> <p>12 for those reasons, even though you're upset that</p> <p>13 Peloton removed a large portion of its library in</p> <p>14 March of 2019 and did not inform you?</p> <p>15 MS. KELLERT: Objection, misstates --</p> <p>16 mischaracterizes his testimony.</p> <p>17 THE WITNESS: Just like what Alexis</p> <p>18 asked about being harmed, I'm not upset nor was I</p> <p>19 harmed. But I'm disappointed in them because I like</p> <p>20 their product and I like to be informed. So I'm</p> <p>21 disappointed that they can communicate to me and not</p> <p>22 tell me that they're removing these classes.</p> <p>23 And, again, I like to go back to</p> <p>24 certain classes and look for -- whether it's to work</p> <p>25 out or I want -- I want to show my kids to let them</p>	<p>1 I thought in reference to, you know, taking away</p> <p>2 from the catalog.</p> <p>3 MR. PROM: I have nothing further.</p> <p>4 MS. KELLERT: I have no further</p> <p>5 questions. Thank you for your time, Mr. Alvarado.</p> <p>6 MR. PROM: Thank you, Mr. Alvarado.</p> <p>7 THE VIDEOGRAPHER: The time is</p> <p>8 11:54 a.m., and that ends today's deposition. Thank</p> <p>9 you, Everyone.</p> <p>10 (Time noted: 11:54 a.m. EDT.)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1 THE STENOGRAFHER: Do you want a draft  
2 e-mailed to you today?  
3 MR. PROM: Yeah, whenever it's  
4 available. And then as far as the final, just  
5 regular service would be great. Thank you.  
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1 CERTIFICATE OF SHORTHAND REPORTER  
2  
3 I, ELISABETH A. LORENZ, Registered  
4 Merit Reporter and Certified Realtime Reporter, the  
5 officer before whom the foregoing deposition was  
6 taken, do hereby certify that the foregoing  
7 transcript is a true and correct record of the  
8 testimony given; that said testimony was taken by me  
9 stenographically and thereafter reduced to  
10 typewriting under my direction; that reading and  
11 signing was not requested; and that I am neither  
12 counsel for, related to, nor employed by any of the  
13 parties to this case and have no interest, financial  
14 or otherwise, in its outcome.  
15 IN WITNESS WHEREOF, I have hereunto set  
16 my hand this 16th day of July, 2021.

17  
18   
19

20 ELISABETH A. LORENZ  
21 NCRA Registered Merit Reporter  
22 NCRA Certified Realtime Reporter  
23  
24  
25